

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WILLIAM E. DUGAN, <i>et al.</i> ,)	
)	CIVIL ACTION
Plaintiffs,)	
)	NO. 07 C 4468
vs.)	
)	JUDGE ROBERT A. GUZMAN
BOUIE CONSTRUCTION, INC.,)	
an Illinois corporation,)	
)	
Defendant.)	

**PLAINTIFFS' FIRST AMENDED
MOTION FOR ENTRY OF DEFAULT AND JUDGMENT**

NOW COME Plaintiffs, William E. Dugan, *et al.* ("Funds"), by their attorneys, pursuant to Rule 55 of the Federal Rules of Civil Procedure, and move for entry of judgment by default against Defendant, BOUIE CONSTRUCTION, INC. ("Bouie Construction"), an Illinois corporation, in the total amount of \$59,748.70, plus costs and reasonable attorneys' fees that the Funds expended in the litigation of this matter, in the amount of \$885.00. In support of their motion, the Funds state as follows:

1. Rule 55(a) of the Federal Rules of Civil Procedure provides that "when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and the fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default. Fed. R. Civ. P. 55(a). Rule 55(b)(2) of the Federal Rules of Civil Procedure provides that this Court can enter judgment by default. Fed. R. Civ. P. 55(b)(2).

2. On August 15, 2007, the Funds' process server, Deputy T. Falasca of the Will County Sheriff's Office, served the Summons and Complaint on the Registered Agent of Bouie

Construction (by tendering a copy of said documents to Maria Jonus) at his place of business (copies of the Summons and revised Affidavit of Service are attached hereto as Exhibit A).

3. Bouie Construction's answer to the lawsuit was due on September 4, 2007.

4. Bouie Construction has not answered or otherwise pled in response to the Complaint.

5. On September 11, 2007, the Funds filed their initial motion for entry of default and judgment.

6. On September 18, 2007, the Court held a hearing on the motion, but entered and continued the motion so as to allow the Funds an opportunity to communicate with the process server, Deputy T. Falasca of the Will County Sheriff's Office, regarding his identification of Maria Jonus as the Defendant in this matter (a copy of the original Affidavit of Service is attached hereto as Exhibit B).

7. On that same date, Funds' counsel contacted the Will County Sheriff's Office to inquire about Deputy T. Falasca's identification of Maria Jonus as "self" with respect to her relationship to Defendant (a copy of the correspondence sent to the Will County Sheriff's Office is attached hereto as Exhibit C).

8. On September 19, 2007, the Will County Sheriff's Office sent a copy of a revised affidavit of service to Funds' counsel by facsimile transmission (a copy of the facsimile cover sheet and revised affidavit are attached hereto as Exhibit D).

9. The revised affidavit indicates that Deputy T. Falasca served the Complaint and Summons on August 15, 2007 on Maria Jonus – who is a manager at the office of the Registered Agent of Bouie Construction.

WHEREFORE, since Defendant has failed to timely answer the Complaint, Plaintiffs respectfully request entry of default and judgment against Bouie Construction, Inc.

/s/ Beverly P. Alfon

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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that he electronically filed the foregoing document (First Amended Motion for Entry of Default and Judgment) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participant on or before the hour of 5:00 p.m. this 1st day of October 2007:

Mr. William T. Kaplan, Registered Agent
Bouie Construction, Inc.
111 N. Ottawa Street
Joliet, IL 60432

/s/ Beverly P. Alfon _____

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